IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

Crl.MC.No. 3464 of 2007()

CRIME NO. 449/01 OF KALAMASSERY POLICE STATION
SC.203/2002 of ADDL. DIST. & SESSIONS JUDGE (ADHOC)III,
N. PARAVUR

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PETITIONER:10TH ACCUSED

SHAJAHAN, AGED 28 YEARS, S/O.ALI,
KATTILPARAMBIL HOUSE,MUPPATHADOM,
KADUNGALLUR VILLAGE, PARAVUR TALUK.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: STATE

STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM
(CRIME NO.449 OF 2001 OF KALAMASSERY POLICE
STATION).

BY PUBLIC PROSECUTOR SRI. P. RAVEENDRA BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 3464 of 2007

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Dated this the 16th day of November, 2007

O R D E R

The petitioner faces indictment in a prosecution for the offence punishable under Section 420 I.P.C. Investigation is now complete. Final report has been filed. Sessions case has been registered. Co-accused have been tried, found not guilty and acquitted. The petitioner was not available for trial before the learned Sessions Judge. The case against him has been split up and has later been transferred to the list of long pending cases. The warrant of arrest issued by the learned Sessions Judge is chasing the petitioner. It is in these circumstances that the petitioner has come to this Court with this petition under Section 482 Cr.P.C

2. According to the petitioner he is absolutely innocent. His failure/omission to appear earlier was not wilful, but was due to reasons beyond his control. He is willing to surrender before

the learned Sessions Judge and seek bail. But he apprehends that his application for bail may not be considered by the learned Judge on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Sessions Judge to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Sessions Judge and explain to the learned Judge the circumstances under which he could not earlier appear before the learned Judge. I have no reason to assume that the learned Sessions Judge would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Judge, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned

Sessions Judge and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Judge must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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